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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

RICHARD ARZOLA,

Plaintiff,

vs.

ELKO POLICE DEPARTMENT, BART
ORTIZ AND NATHANIEL BRADFORD,

Defendants.

Case Number:
3:21-cv-00367-MMD-WGC

**STIPULATION AND ORDER TO
EXTEND DISCOVERY**

(FIRST REQUEST)

Pursuant to LR 6-1 and LR 26-4, Defendants Elko Police Department, Bart Ortiz and Nathaniel Bradford (“Defendants”), by and through their attorneys of record, Marquis Aurbach Coffing, and Plaintiff Richard Arzola (“Plaintiff”), by and through his attorney of record, Shaun Rose Law LLC, hereby stipulate and request that this Court extend discovery deadlines in the above-captioned matter sixty (60) days, up to and including July 13 2022.

In support of this stipulation and request, the parties state as follows:

I. PROCEDURAL HISTORY

1. On August 18, 2021, Plaintiff filed his Complaint. ECF No. 1.
2. On September 15, 2021, the Defendants filed their Answer to Plaintiff’s Complaint. ECF No. 5.
3. On October 27, 2021, this Court entered the Discovery Plan and Scheduling Order. ECF No. 8.

II. DISCOVERY COMPLETED TO DATE

1. The original parties participated in the FRCP 26 conference on October 27, 2021.
2. Defendants served their Initial Rule 26 Disclosures on November 24, 2021.
3. Plaintiff served his Initial Rule 26 Disclosures on November 24, 2021.
4. Plaintiff served his First Supplemental Disclosures on December 17, 2021.
5. Plaintiff served his Second Supplemental Disclosures on January 10, 2022.

III. WHY REMAINING DISCOVERY HAS NOT BEEN COMPLETED

The parties are actively conducting discovery. However, Defendants specifically need additional time to retain and disclose their initial expert. For that reason and the reasons explained below, the Parties will need additional time to propound written discovery, respond to written discovery, and conduct depositions.

IV. REMAINING DISCOVERY

1. Plaintiff needs to take the depositions of the named Defendants.
2. Defendants need to take the deposition of the Plaintiff.
3. Both parties need to serve and answer written discovery.
4. Both parties need to disclose their experts.
5. Plaintiff needs to take the deposition of the Defendants' expert(s), medical expert(s) and rebuttal expert(s).
6. Defendants need to take the depositions of the Plaintiff's expert(s), medical expert(s), and rebuttal expert(s).

This section does not limit the parties' ability to conduct other discovery.

V. EXTENSION OR MODIFICATION OF THE DISCOVERY PLAN AND SCHEDULING ORDER

LR 26-3 governs modifications of extensions of the Discovery Plan and Scheduling Order. Pursuant to Local Rule 26-3, the Parties submit that good cause exists for the extension requested. This is the first request for an extension of discovery deadlines in this matter. The Parties acknowledge that, pursuant to Local Rule 26-3, any stipulation or motion

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1 must be made no later than twenty-one (21) days before the expiration of the subject
2 deadline, and that a request made within 21 days must be supported by a showing of good
3 cause. While the majority of the deadlines the Parties seek to extend are outside of the 21-
4 day window, the deadline for initial expert disclosures is January 13, 2022. Thus, the Parties
5 must establish that good cause exists to extend this deadline.

6 The Parties have been conducting discovery in this matter. However, after a review
7 of the body cam footage in this matter and due to the complexity of the law surrounding
8 Plaintiff's claims, it is necessary for the parties to retain an expert witness. Defendants have
9 been working to retain such expert but have been delayed and will be unable to meet the
10 current deadline. As the procedural history in this case illustrates, this is a fairly new matter
11 with initial disclosures being disclosed less than two months ago. Again, it was not until
12 after a review of the bodycam footage was it determined an expert would be necessary and
13 then the retention of an expert has been delayed slightly. The Parties together request this in
14 good faith and to further the resolution of this case on the merits, and not for any purpose of
15 delay.

16 The Parties thus respectfully request an extension of time to extend the discovery in
17 this matter to enable them to conduct necessary discovery in this matter and so that this
18 matter is fairly resolved on the merits. Assuming that the Court determines that the "good
19 cause" standard applies to all discovery deadlines sought to be extended by this Stipulation,
20 this Court noted that "Good cause to extend a discovery deadline exists 'if it cannot
21 reasonably be met despite the diligence of the party seeking the extension.'" *Derosa v.*
22 *Blood Sys., Inc.*, No. 2:13-cv-0137-JCM-NJK, 2013 U.S. Dist. LEXIS 108235, 2013 WL
23 3975764 at 1 (D. Nev. Aug. 1, 2013) (quoting *Johnson v. Mammoth Recreations, Inc.*, 975
24 F.2d 604, 609 (9th Cir. 1992)).

25 The following is a list of the current discovery deadlines and the parties' proposed
26 extended deadlines.

Scheduled Event	Current Deadline	Proposed Deadline
Amend pleadings and add parties	Passed	
Initial Expert Disclosures Pursuant to FRCP 26(a)(2)	January 13, 2022	March 14, 2022
Rebuttal Expert Disclosures Pursuant to FRCP 26(a)(2)	February 14, 2022	April 14, 2022
Discovery Cut-Off	March 14, 2022	May 13, 2022
Dispositive Motion	April 13, 2022	June 13, 2022
Joint Pre-Trial Order	May 13, 2022	July 13, 2022 (if dispositive motions are filed the deadline for filing the joint pre-trial order will be suspended until 30 days after a decision on the dispositive motions or further court order)

This request for extensions of time is not sought for any improper purpose or for purposes of delay.

WHEREFORE, the parties respectfully request that this court extend the discovery dates as outlined in accordance with the table above.

IT IS SO STIPULATED this 12th day of January, 2022.

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ORDER

IT IS SO ORDERED January 12, 2022.

William G. Cobb

United States Magistrate Judge